

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY RANGOON PRIORITY

C O N F I D E N T I A L STATE 067315

FOR AMBASSADOR VANCE

FOLLOWING SENT VIENTIANE INFO GENEVA FROM SECSTATE WASHDC
25 MAR 75:

QUOTE C O N F I D E N T I A L STATE 067315

E.O. 11652: GDS

TAGS: SNAR

SUBJECT: NARCOTICS: POSSIBLE RESUMPTION OF OPIUM PRODUC-
TION IN LAOS

REFERENCE: (A) VIENTIANE 2056; (B) STATE 066312

1. IN REFTEL (A) IT IS REPORTED THAT LAOTIAN OFFICIALS ARE
CONSIDERING REPEAL OF 1971 LEGISLATION WHICH PROHIBITS THE
PRODUCTION OF OPIUM. THESE OFFICIALS ARE ALSO CONSIDERING
THE INITIATION OF OPIUM PRODUCTION FOR INTERNATIONAL TRADE.

2. FOUR BASIC PROVISIONS OF THE SINGLE CONVENTION ON NAR-
COTICS DRUGS, 1961 ARE INTENDED TO ENSURE THE LIMITATION OF
OPIUM PRODUCTION TO MEDICAL AND SCIENTIFIC NEEDS: (1)
ARTICLE 4, SUBPARAGRAPH (C) ESTABLISHING THE AIM OF THE
TREATY; (2) ARTICLE 22 PROVIDING UNDER CERTAIN CONDITIONS
FOR THE PROHIBITION OF THE CULTIVATION OF THE OPIUM POPPY
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IN ORDER TO PREVENT DIVERSION OF OPIUM INTO ILLICIT

CHANNELS; (3) ARTICLE 23 REQUIRING THAT OPIUM-PRODUCING COUNTRIES ESTABLISH ADEQUATE MACHINERY FOR THE CONTROL OF OPIUM PRODUCTION AND THAT THEY MAKE THE INTERNATIONAL AND WHOLESALE TRADE IN OPIUM A GOVERNMENT MONOPOLY, AND FINALLY (4) ARTICLE 24, WHICH IS A GENERAL PRINCIPLE OBLIGATING PARTIES NOT TO CONTRIBUTE TO OVERPRODUCTION OF OPIUM, AND MORE SPECIFICALLY ESTABLISHES RULES BY WHICH THE NUMBER OF COUNTRIES PRODUCING OPIUM FOR EXPORT SHOULD BE REDUCED IN ORDER TO CONTRIBUTE TO THE ACHIEVEMENT OF THIS AIM.

3. THE OBJECT OF ARTICLE 4 IS TO REQUIRE ALL PARTIES TO TAKE SUCH LEGISLATIVE AND ADMINISTRATIVE MEASURES AS MAY BE NECESSARY TO LIMIT EXCLUSIVELY TO MEDICAL AND SCIENTIFIC PURPOSES THE PRODUCTION, MANUFACTURE, EXPORT, IMPORT, DISTRIBUTION OF, TRADE IN, USE AND POSSESSION OF OPIUM. FROM THE BEGINNING THIS HAS BEEN A BASIC PRINCIPLE OF THE MULTILATERAL NARCOTICS CONTROL SYSTEM. IT IS ONE OF THE TREATY'S MOST IMPORTANT FEATURES.

4. ARTICLE 22 IS SPECIFICALLY MEANINGFUL AND CALLS FOR AN ACT OF GOOD FAITH BY ALL PARTIES TO PROHIBIT THE CULTIVATION OF THE OPIUM POPPY IF IT CONSIDERS SUCH A STEP TO BE THE MOST SUITABLE MEASURE FOR PROTECTING THE PUBLIC HEALTH AND WELFARE AND PREVENTING THE DIVERSION OF DRUGS TO THE ILLICIT TRAFFIC. THE DECISION WHETHER THE CONDITIONS EXIST UNDER ARTICLE 22 FOR PROHIBITION IS LEFT TO THE JUDGMENT OF GOL, BUT NOT ENTIRELY TO ITS DISCRETION. A GOVERNMENT WHICH FOR MANY YEARS, DESPITE ITS EFFORTS, HAS BEEN UNABLE TO PREVENT LARGE-SCALE DIVERSION OF DRUGS FROM CULTIVATION CAN HARDLY BE OF THE OPINION THAT PROHIBITION OF SUCH CULTIVATION WOULD NOT BE THE MOST SUITABLE MEASURE FOR PROTECTING PUBLIC HEALTH AND WELFARE AND PREVENTING THE DIVERSION OF DRUGS TO THE ILLICIT TRAFFIC. BEFORE PERMITTING A RESUMPTION OF OPIUM PRODUCTION, AN AFFIRMATIVE OPINION OF THE GOL WILL BE NECESSARY IN ORDER TO SATISFY THIS OBLIGATION.

5. ARTICLE 24 IS PERHAPS MORE CONTROLLING THAN ANY OTHER PROVISIONS OF THE TREATY. PARAGRAPH 1(P) STATES THAT A PARTY SHALL NOT PERMIT THE PRODUCTION OF OPIUM IF IN ITS

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OPINION SUCH PRODUCTION MAY RESULT IN ILLICIT TRAFFIC IN OPIUM. THIS PROVISION IS READ IN CONNECTION WITH ARTICLE 22 DISCUSSED ABOVE. LIKE MANY OTHER PROVISIONS OF THE TREATY, THIS OBLIGATION MUST BE CARRIED OUT IN GOOD FAITH, AND THE WORDS "IF IN ITS OPINION" DO NOT PERMIT ARBITRARY DISCRETION.

6. PARAGRAPHS 2 AND 3 OF ARTICLE 24 ARE PARTICULARLY

APPLICABLE TO GOL'S DECISION. THESE PARAGRAPHS SPECIFY THAT ONLY CERTAIN COUNTRIES THAT EXPORTED OPIUM WHICH SUCH COUNTRY PRODUCED DURING TEN YEARS NEXT PRECEDING 1 JANUARY 1961 ARE AUTHORIZED NOW TO PRODUCE OPIUM FOR EXPORT. GOL WAS NOT A COUNTRY THAT EXPORTED OPIUM PRODUCED IN LAOS DURING THE TEN-YEAR PERIOD. THEREFORE, LAOS IS NOT AUTOMATICALLY ELIGIBLE UNDER PARAGRAPH 3 TO PRODUCE OPIUM FOR EXPORT.

7. LAOS COMES UNDER THE PROVISIONS OF PARAGRAPH 2 WHICH SPECIFIES THAT IF GOL DESIRES TO PRODUCE OPIUM FOR EXPORT IN AMOUNTS EXCEEDING FIVE TONS ANNUALLY, IT SHALL NOTIFY THE ECONOMIC AND SOCIAL COUNCIL OF THE UN, AND ECOSOC WILL DECIDE WHETHER TO EITHER APPROVE THE REQUEST OR RECOMMEND AGAINST SUCH PRODUCTION. THE U.S. BELIEVES THAT IF A RECOMMENDATION AGAINST PRODUCTION WERE MADE BY ECOSOC IT WOULD BE BINDING ON GOL.

8. IF GOL WERE TO DECIDE TO PRODUCE OPIUM FOR EXPORT IN AMOUNTS NOT EXCEEDING FIVE TONS ANNUALLY, IT WOULD BE REQUIRED TO NOTIFY THE INTERNATIONAL NARCOTICS CONTROL BOARD, AND THE BOARD WILL DECIDE WHETHER TO EITHER APPROVE THE REQUEST OR RECOMMEND AGAINST SUCH PRODUCTION.

9. WHEN CONSIDERING WHETHER TO APPROVE OR RECOMMEND AGAINST A REQUEST TO PRODUCE EITHER MORE OR LESS THAN FIVE TONS OF OPIUM, ECOSOC AND INCB WOULD, RESPECTIVELY, TAKE INTO ACCOUNT WHETHER GOL HAS (1) SATISFACTORY LAWS, (2) EFFECTIVE CONTROLS TO PREVENT DIVERSION, (3) GOL'S HISTORY OF CONTROLS, AND (4) WHETHER THERE IS ANY NEED FOR ADDITIONAL OPIUM. CLEARLY, NEITHER ECOSOC NOR INCB WOULD GIVE APPROVAL OF GOL PRODUCTION OF OPIUM BEFORE THE REQUIRED LAWS AND ADMINISTRATIVE MACHINERY HAVE BEEN SET
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UP AND ARE CAPABLE OF OPERATION. MOREOVER, NO PARTY TO THE TREATY WOULD BE PERMITTED TO IMPORT OPIUM FROM LAOS UNTIL LAOS HAS RECEIVED APPROVAL FROM EITHER ECOSOC OR INCB AND EVEN THEN ONLY IF THE PARTY IS SATISFIED THAT LAOS HAS ESTABLISHED AND MAINTAINS A NATIONAL CONTROL SYSTEM AND HAS IN FORCE AN EFFECTIVE MEANS OF ENSURING THAT THE OPIUM IT PRODUCES IS NOT DIVERTED INTO THE ILLICIT TRAFFIC.

10. THE HISTORY OF GOL ABILITY TO CONTROL THE PRODUCTION OF OPIUM EXCLUSIVELY FOR MEDICAL AND SCIENTIFIC PURPOSES AND TO PREVENT SUCH PRODUCTION FROM ENTERING THE ILLICIT TRAFFIC HAS NOT BEEN GRATIFYING. SINCE ITS SECOND REPORT IN 1969, THE INTERNATIONAL NARCOTICS CONTROL BOARD HAS EXPRESSED CONCERN ABOUT THE SITUATION IN LAOS. IN ITS

1970 REPORT THE BOARD SPECIFICALLY URGED LAOS TO ENACT LEGISLATION TO PROHIBIT POPPY CULTIVATION. IN ALL OF THE SUBSEQUENT REPORTS, THE BOARD HAS BEEN ENCOURAGED BY THE PROGRESS IN LAOS; HOWEVER, THERE IS GOOD REASON TO BELIEVE FROM A REVIEW OF THE REPORTS THAT THE BOARD'S REACTION TO THE LAOS PROPOSAL WOULD NOT BE FAVORABLE. THE INTERNATIONAL NARCOTICS CONTROL BOARD HAS ALWAYS STRONGLY DISCOURAGED THE CULTIVATION OF OPIUM POPPIES UNDER CIRCUMSTANCES IN WHICH CONTROLS ARE INADEQUATE TO PREVENT LEAKAGE.

11. AT THE RECENT MEETING OF THE UN COMMISSION ON NARCOTIC DRUGS IN GENEVA, 17-28 FEBRUARY 1975, THE U.S. REPRESENTATIVE URGED THAT THE TEMPORARY SHORTAGE OF LICIT OPIUM SHOULD NOT LEAD TO ACTION WHICH COULD RESULT IN A STEP BACKWARDS IN INTERNATIONAL NARCOTICS CONTROL. THE MEMBERS OF THE COMMISSION FULLY SUBSCRIBED TO THE FACT THAT CONTROLLED REPEAT CONTROLLED PRODUCTION IS THE ONLY WAY TO RESPOND TO A SHORTAGE. THEY AGREED THAT INCREASING SUPPLIES MUST BE PRODUCED SOLELY IN A MANNER WHICH DOES NOT INCREASE THE RISK OF DIVERSION FOR ILLICIT PURPOSES.

12. FOR THE REASONS STATED, WE ARE NOT OPTIMISTIC THAT EITHER ECOSOC OR INCB WILL APPROVED OF THE PRODUCTION OF OPIUM FOR EXPORTATION BY LAOS. GOL HAS A HEAVY BURDEN IN PROVING TO THESE ORGANIZATIONS AND TO WORLD GOVERNMENTS
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THAT IT CAN PRODUCE OPIUM IN COMPLIANCE WITH ITS TREATY OBLIGATIONS. KISSINGER UNQUOTE KISSINGER

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